



U.S. Department of Justice

Civil Rights Division

Housing and Civil Enforcement Section

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DJ 175-50-62

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March 22, 2019

Via ECF

Hon. Thérèse Wiley Dancks
United States Magistrate Judge
Federal Building and U.S. Courthouse
P.O. Box 7346
Syracuse, New York 13261-7346

Re: *United States v. Waterbury, et al.*, No. 5:18-cv-440 (MAD/TWD),
Joint Status Report

In accordance with the Court's February 1, 2019 Text Order (ECF 45), the parties jointly provide the following status report regarding their receipt and review of the Defendants' financial information. In addition, the parties wish to update the Court on the status of their settlement negotiations and to request that the Court continue to hold discovery in abeyance under the terms agreed to during the December 7, 2018 Telephone Conference. *See* Dec. 7, 2018 Text Order (ECF 38); Feb. 1, 2019 Text Order.

Status of Financial Discovery

The financial subpoenas served by the United States in this case, and by the plaintiffs in *CNY Fair Housing, Inc., et al. v. Waterbury, et al.*, No. 5:17-cv-868 ("Related Case"), have produced tens of thousands of pages of documents. All documents received to date by the United States have been provided to the Defendants pursuant to the Court's February 1, 2019 Text Order. The parties have been working diligently to complete their review of this voluminous financial information.¹

A small amount of financial discovery remains outstanding. First, on December 21, 2018, the United States requested two additional authorizations from the Defendants for financial accounts that the United States became aware of during its review of other subpoenaed documents. Defendants provided the United States with the requested authorizations on March 21, 2019. The United States served subpoenas on those institutions on March 22, 2019 and will promptly provide to the Defendants any responses it receives to these subpoenas.

¹ In addition, the United States has served seven non-financial third-party subpoenas for the production of documents in this case. The United States has and will continue to provide copies of documents received pursuant to these subpoenas to Defendants' counsel promptly upon receipt.

In addition, the United States is still awaiting receipt of documents in the possession of the law firm Bousquet Holstein, PLLC. As agreed during the September 17, 2018 Settlement Conference, the United States and the plaintiffs in the Related Case requested that the Defendants direct the Bousquet Holstein firm to provide an affidavit identifying all documents in its possession that reflect the Defendants' assets and sources of income. On October 24, 2018, prior counsel for the Defendants provided that affidavit to the United States. The affidavit identified several non-privileged documents and, on November 8, 2018, the United States requested that the Defendants obtain those documents directly from Bousquet Holstein. *See* Nov. 28, 2018 Status Report of U.S. at 2 (ECF 31). The United States reiterated that request to Defendants' current counsel on December 21, 2018, and subsequently. Defendants are working with Bousquet Holstein to obtain the requested documents and hope to provide those documents to the United States within the next two weeks.

Status of Negotiations and Request to Extend Stay of Discovery

Even as the parties await the information identified above, settlement discussions have continued. The United States and the Defendants in this case have agreed to adopt the framework proposed by the parties in the Related Case in their February 15, 2019 Joint Status Report (ECF 71). Specifically, the United States will provide a settlement proposal to the Defendants on March 22, 2019, the date of this Joint Status Report, and the Defendants will provide an acceptance or counter-offer to the United States on or before April 12, 2019. As in the Related Case, the parties have agreed to identify particular financial records or other documents or information in support of their respective proposals, in an effort to ground the negotiations in specific evidence. The parties propose to update the Court on the status of their negotiations, including their respective positions on the need for an in-person settlement conference, during the telephone conference set for May 1, 2019. *See* Feb. 20, 2019 Text Notice.

To permit negotiations to proceed as outlined above, and to conserve the parties' resources, the parties respectfully request that the Court continue to hold discovery in abeyance under the terms agreed to during the December 7, 2018 Telephone Conference. *See* Dec. 7, 2018 Text Order; Feb. 1, 2019 Text Order.

Respectfully submitted,

s/ Lori K. Wagner

Lori K. Wagner

Counsel for the United States

s/ John P. Coughlan

John. P. Coughlan

Counsel for the Defendants

cc: Counsel of Record (by ECF)